IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6754 OF 2005

Shri.Shardul A.Mehta ..Applicant

Vs.

Jayant P.Jain & Anr. ..Respondents

...

Mr.Sanjeev Kadam Advocate for Applicant
Mr. Rajesh More A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : OCTOBER 24, 2005

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of proceedings relating to Criminal Case No.2218/SS/2005 (Old No.2793/SS/2004) which is pending before the learned Metropolitan Magistrate, 12th Court, Bandra, Mumbai. In the said case, process has been issued against the applicants under Section 138 r.w. 142 of Negotiable Instruments Act. The learned advocate for the

applicant submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process issued against the applicant is set aside, the proceedings in respect of the applicant, would come to an end.

3. For the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode reported in 2005(3) Mh.L.J.778,** I am of the opinion that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant makes a statement that the necessary revision will be preferred within six weeks from today. I am informed that the date before the

trial Court is 21.1.2005. In view of this statement, the trial Court shall not proceed with the trial on 21.11.2005 and for a period of two weeks thereafter.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]